

Summary of Testimony Points by
R. Bruce Beckner
Commissioner ANC3C

Good evening. I'm Bruce Beckner, Commissioner for single-member district 5 of ANC3C. The SMD that I represents includes the western side of the Connecticut Avenue commercial overlay district, and ANC3C includes three of the four neighborhood commercial overlay districts in our City – Cleveland Park, Woodley Park and Wisconsin Avenue.

In the first part of my remarks, I'm speaking for the Commission as a whole. However, because our ANC has not considered the latest proposal for which the Commission sought comment nor the counter-proposal of the Cleveland Park Citizens Association, in the second part of my remarks, I am speaking only as the representative of my single-member district.

From our perspective, the commercial overlay districts have two, complementary objectives. We think that, when considering changes to the overlay district regulations, those changes have to be measured against how well they would further those objectives.

The first objective is to regulate commercial development in a way that ensures that some of the commercial establishments in the overlay district serve the residents who live in the immediate area. This has two benefits: it enhances those neighborhoods and it reduces the need of the residents of those neighborhoods to use a car for shopping. In addition, it is worth noting that all of the commercial overlay districts in our ANC, including the one that I represent, have a substantial number of nearby apartment buildings; and not all of those folks even own cars. Some of them are elderly and some of them are low-income. So, it's important for them to be able to shop on foot.

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The second objective is to limit the number of establishments that attract patrons living outside of the immediate area. Those patrons often arrive in cars, and there is very limited parking available in the Cleveland Park Commercial Overlay District – only one off-street parking lot of any size. Many residents of single-family and duplex homes immediately adjacent to the commercial district have no off-street parking. So they are competing with restaurant and bar patrons for a limited supply of on-street parking, and RPP restrictions do not apply in the evenings and on weekends.

I'm not saying that bars and restaurants are not a good thing and do not contribute to the vitality of a neighborhood. They do. But you can have too much of a good thing.

Apparently this Commission and our ANC several years ago concluded that the commercial overlay regulations, as written, were sufficiently obtuse as to be difficult to enforce. This creates problems for everyone: neighborhood residents, landowners, business owners and the DCRA, which has enforcement responsibility for making this work. The result was, that the purposes I just mentioned were not being fulfilled, or were being fulfilled with great difficulty and expense to everyone.

In October of 2003, our ANC proposed revisions to these regulations in an effort to clarify them and make them more enforceable. Since that time, there have been further revisions and proposed drafts. And here is the point in my remarks where I can no longer speak for the Commission as a whole – because it has not considered the latest proposals – but can speak only as a single-member district representative.

In conjunction with the Cleveland Park Citizens Association, I and the chair of ANC3C have met with Dr. Patrick Canavan, the head of DCRA, and members of his staff to attempt to come up with a proposal that alleviates the problems that others have identified with the

regulations and, in the opinion of those charged with enforcing them, would make them more enforceable. I believe that the proposal of the Cleveland Park Citizens' Association is, at the very least, a good-faith effort to respond to those concerns.

The major thrust of that proposal is to remove the ambiguity that exists in the current regulations and, quite frankly, that exists in the proposal put out for comment. As a general matter, complexity breeds ambiguity; and the proposal put out for comment certainly is complicated.

The CPCA proposal defines the regulated establishments by the business licenses that are issued to them and excludes delicatessens, which avoids the classification problems associated with convenience stores and gasoline stations that also sell some food. Going back to the objectives that I have identified, I don't think the presence or absence of delicatessens and other exclusively carry-out food establishments really causes the adverse effects that overlay districts are designed to limit. To the extent that they may generate more than their share of litter and people "hanging out," there are other and better ways to deal with those issues.

The CPCA proposal provides certainty by establishing an objective measure – linear street frontage – as the basis for regulation and requires the zoning administrator to keep a publicly available record that allows anyone to determine, with certainty, whether or not there is room for another restaurant or bar in the overlay district.

Finally, consistent with DCRA's practice as described to us, the CPCA proposal makes the issuance of building permits the triggering event for determining compliance with commercial overlay limits and also protects the recipient of those permits from the possibility that a certificate of occupancy will not be issued for that use, once construction is complete.

My understanding is that the CPCA has presented a detailed written critique of the regulations that were submitted for comment. I have reviewed that critique and concur with it. I will not take up your time by repeating it here orally.

My hope is that the Commission will favorably consider the CPCA's proposal, perhaps putting that proposal up for comment by the public and by affected parties, including ANCs.

I would like to conclude by saying that the test of any regulation is whether or not it accomplishes its intended purposes and how efficiently it does the job. Vague, ambiguous or complex regulations often do not accomplish their purposes; and they impose substantial costs on everyone involved.

I hope I can have your support for simplicity, in the form of the proposed regulations submitted to you by the Cleveland Park Citizens Association.

Thank you very much.